

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:

**Pavement Solutions, LLC
Pavement Solutions Contractors, LLC
Pavement Strategies Inc
d/b/a Pavement Solutions Inc
20 Mid Rivers Trade Court
St Peters, MO 63376**

Order No. 2016-WPCB-1460

**Proceeding under the
Missouri Clean Water Law**

ABATEMENT ORDER

**SERVE BY CERTIFIED MAIL –
RETURN RECEIPT REQUESTED**

**TO: Matthew E. St John, Registered Agent
Pavement Strategies Inc
20 Mid Rivers Trade Court
St Peters, MO 63376**

Notice is hereby given that on this date the Missouri Department of Natural Resources (“Department”) is issuing this Abatement Order (“Order”) to Pavement Solutions, LLC; Pavement Solutions Contractors, LLC; Pavement Strategies Inc; d/b/a Pavement Solutions Inc (“Respondents”) under the Missouri Clean Water Law, Chapter 644 of the Revised Statutes of Missouri (“RSMo”), specifically section 644.056 RSMo.

Failure to comply with this Order is, by itself, a violation of the Missouri Clean Water Law under section 644.076 RSMo. Continued noncompliance may result in the Department pursuing legal action for injunctive relief, additional penalties of up to ten thousand dollars (\$10,000.00) per day for each day or part thereof of noncompliance, a surcharge of 15% of the penalty described herein, 10% interest on any amounts owed, attorney fees and costs, and/or any

other remedy authorized by law, including but not limited to sections 644.056 and/or 644.096 RSMo.

FINDINGS OF FACT

1. On Friday, September 30, 2016, Respondents reported to the Department's Emergency Response hotline a release of a water contaminant, approximately 2,000 gallons of a liquid concrete additive, as a result of a motor vehicle incident that occurred near the intersection of Airport Cargo Road and James S McDonnell Boulevard.
2. The initial information provided to the Department indicated that the released material was contained in a nearby stormwater basin, a cleanup of the released material had been completed, and no further actions were warranted.
3. In the following days, the Department received multiple reports of a milky-white discoloration in Coldwater Creek, which Department staff confirmed.
4. Additional reports indicated some portion of the released material may have been inappropriately power-washed into the local storm water system.
5. The discoloration appears to be the result of a release of a concrete additive product called "Modifier A/NA," which was not recovered during the initial cleanup effort, flowed through the local storm sewer system, and discharged into Coldwater Creek.
6. Respondents have taken responsibility for the incident and have initiated efforts to recover the water contaminants from Coldwater Creek. Such efforts are ongoing, and include the use of a vacuum truck to remove the water contaminants and then discharge them into the nearby sanitary sewer system.
7. The released product is a "water contaminant" as the term is defined in Section 644.016 RSMo.

8. Coldwater Creek is “waters of the state” as defined in Section 644.016 RSMo.

9. The corrective actions described below are required to abate the violations in that current efforts at conference, conciliation and persuasion have not resolved the violations.

10. This Order is necessary to compel compliance and/or to prevent or eliminate threats to human health or the environment.

11. The Department will continue to ensure appropriate actions are taken to protect human health and the environment in response to the release described in this Order.

STATEMENT OF VIOLATIONS

The Respondents have violated the Missouri Clean Water Law and its implementing regulations as follows:

12. Since September 30, 2016, Respondents have operated, used or maintained a water contaminant source, which discharged to Coldwater Creek, waters of the state, without a Missouri State Operating Permit (MSOP), in violation of Sections 644.051.2 and 644.076.1, RSMo, and 10 CSR 20-6.010(1)(A) and (5)(A).

13. Since September 30, 2016, Respondents have caused pollution of Coldwater Creek, waters of the state, or placed or caused or permitted to be placed a water contaminant in a location where it is reasonably certain to cause pollution of waters of the state, in violation of Sections 644.051.1(1) and 644.076.1, RSMo.

14. Since September 30, 2016, Respondents have discharged a water contaminant, liquid concrete additive, into waters of the state, which reduced the quality of such waters below the Water Quality Standards established by the Missouri Clean Water Commission, in violation of Sections 644.051.1(2) and 644.076.1, RSMo, and 10 CSR 20-7.031(4)(C).

CORRECTIVE ACTIONS

Pursuant to section 644.056 RSMo, the Department hereby orders the Respondents to complete each of the following corrective actions:

15. **Continue Cleanup** – Respondents shall continue and expedite the cleanup and recovery efforts which are underway, in a manner consistent with any instructions from the Department.

16. **Daily reporting** – Respondents shall provide daily updates to the Department (Dorothy Franklin) regarding the progress of the cleanup and recovery efforts, until otherwise directed in writing by the Department.

17. **Post-cleanup monitoring** – Respondents shall conduct sampling and monitoring as required by the Department.

COST RECOVERY

Pursuant to section 644.096 RSMo, the Department hereby orders the Facility to pay for the following Department costs and expenses:

18. Within 60 days from the date of receiving an invoice from the Department, the Respondents shall reimburse the Department as directed for its oversight costs and expenses.

SUBMISSIONS

19. All documentation submitted to the Department for compliance with this Order shall be submitted within the timeframes specified to:

Dorothy Franklin
St. Louis Regional Office
Missouri Department of Natural Resources
P 7545 S. Lindbergh, Ste 210
St. Louis, Missouri 63125

OTHER PROVISIONS

20. The Department expressly reserves the right to pursue additional remedies with respect to any violations described herein or otherwise discovered in response to the above-mentioned release.

21. This Order shall apply to and be binding upon the Respondents and any of their agents, subsidiaries, successors, assigns, affiliates, or lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the Respondents. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, shall not relieve the Respondents of their obligation to comply with this Order.

NOTICE OF APPEAL RIGHTS

22. If you are adversely affected by this decision, you may be entitled to pursue an appeal before the administrative hearing commission ("AHC") pursuant to 10 CSR 20-1.020 and Sections 644.056, 644.079, 640.013, and 621.250, RSMo. To appeal, you must file a petition or notice of appeal with the AHC within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the AHC. Any appeal should be directed to:

Administrative Hearing Commission
Truman State Office Building, Room 640
301 W. High Street
P.O. Box 1557
Jefferson City, Missouri 65102
phone: 573-751-2422
fax: 573-751-5018
website: www.oa.mo.gov/ahc

SIGNATURE AUTHORITY

SO ORDERED this 4th day of October, 2016 by:

DEPARTMENT OF NATURAL RESOURCES

A handwritten signature in cursive script, reading "Leanne Tippet Mosby", written over a horizontal line.

Leanne Tippet Mosby, Director
Division of Environmental Quality

c: Dorothy Franklin, St. Louis Regional Office
Tim Duggan, Missouri Attorney General's Office